

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RICHARD LEE JOHNSEN,

Plaintiff,

Case No. C19-141-TSZ-MLP

V.

HENRY TAMBE,

Defendant.

**ORDER DENYING PLAINTIFF'S
MOTION FOR DEFAULT**

This is a 42 U.S.C. § 1983 prisoner civil rights action. On April 1, 2019, Plaintiff filed a motion for Entry of Default,” which the Court construes as a motion for entry of default against Defendant. (Dkt. # 17 at 1.) Plaintiff asserts that although Defendant had thirty (30) days from the Court’s February 25, 2019 Order directing service of the complaint to return the waiver of summons, Defendant failed to do so by the applicable deadline. (*Id.*) Plaintiff states that the deadline for Defendant to return the waiver was March 17, 2019. (*Id.*)

Defendant responds that pursuant to Rule 6, which directs parties how to compute time specified in the Federal Rules of Civil Procedure, the applicable deadline was March 27, 2019. (Dkt. # 18 at 3.) As Defendant sent the waiver of service to Plaintiff on February 26, 2019, and

1 filed it with the Court on March 27, 2019, Defendant argues that the waiver was returned within
2 the thirty (30) days required by the Court's February 25, 2017 Order. (Dkt. ## 16, 18.)

3 Defendant's calculation of the applicable deadline as March 27, 2019 is correct. *See* Fed.
4 R. Civ. P. 6. Pursuant to Waiver of Service Rule 4(d)(3), Defendant has 60 days from February
5 25, 2019 – the date the request was sent – to respond to Plaintiff's complaint. Thus, Defendant's
6 response is due by no later than April 29, 2019. As Defendant has not "failed to plead or
7 otherwise defend" as required for an entry of default, the Court DENIES Plaintiff's motion. (Dkt.
8 # 17.)

9 The Clerk is directed to send copies of this order to the parties and to the Honorable
10 Thomas S. Zilly.

11 Dated this 5th day of April, 2019.

12 
13 MICHELLE L. PETERSON
14 United States Magistrate Judge